



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking on the
Commission's Own Motion to Conduct a
Comprehensive Examination of Investor
Owned Electric Utilities' Residential Rate
Structures, the Transition to Time Varying and
Dynamic Rates, and Other Statutory
Obligations.

Rulemaking 12-06-013
(Filed June 21, 2012)

**PREHEARING STATUS CONFERENCE STATEMENT OF THE UTILITY
CONSUMERS' ACTION NETWORK (UCAN)**

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October 6, 2016

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I. INTRODUCTION

Pursuant to the September 30, 2016 ruling from Administrative Law Judge (ALJ) Jeanne McKinney setting a prehearing conference (PHC) for October 10, 2016 and inviting party comments, UCAN hereby offers our thoughts regarding some of the remaining Public Utilities Code section 745 issues.

II. PUBLIC UTILITIES CODE SECTION 745 ISSUES

In a previous ruling issued August 10, 2016 ALJ McKinney added a 745 issue matrix to the administrative record as a reference document. Even though on September 19, 2016 the Commission decided several of the PU Code section 745 issues mentioned in the matrix in D.16-09-016, several items remain to be considered by the Commission. While some of the undecided 745 issues mentioned in the matrix can be handled through the advice letter process, for a few of the issues noted, UCAN believes that the Commission should not use the advice letter/resolution process but rather issue a proposed decision and then vote on it. UCAN believes that the following issues fall into this category:

1. When customers establish new electric service, can they be defaulted onto a TOU rate or must the utility obtain 12 months of customer interval data before they can be defaulted?
2. If a utility must wait for 12 months of interval data, once that data is obtained can customers automatically be moved to the default TOU rate or must the utilities obtain customers' consent?
3. Should the utilities seek "affirmative consent" from otherwise-excluded customers to be included in TOU at the same time that they take steps to identify such customers?

Regarding the first two issues noted above, the Commission must decide how to interpret section 745 (c)(4)'s mandate that no customer can be defaulted to time-of-use (TOU) rates unless the utilities have one year of usage interval data. This code section reads as follows:

(4) A residential customer shall not be subject to a default time-of-use rate schedule unless that residential customer has been provided with not less than one year of interval usage data from an advanced meter and associated customer education and, following the passage of this period, is provided with no less than one year of bill protection during which the total amount paid by the residential customer for electric service shall not exceed the amount that would have been payable by the residential customer under that customer's previous rate schedule.

The Commission needs to decide if the above statutory language allows a new utility customer to be defaulted onto a TOU rate without consent, or if they can only be defaulted after having been a utility customer for a year or longer after one year of interval usage data has been collected. Should the Commission decide that new customers can be defaulted and that requiring 12 months of interval data before moving new customers to the default TOU rate would frustrate the legislative intent of the statute and lead to an absurd result, how would the Commission ensure one year of bill protection where the total amount paid by the residential customer for electric service shall not exceed the amount that would have been payable by the residential customer under that customer's previous rate schedule?

Given that a substantial number of the utilities' customers move yearly, the answer to these questions are fundamental to the implementation and on-going operation of a default TOU in California. UCAN believes that prior to the Commission deciding how it interprets PU Code

section 745 (c)(4) the parties should be allowed to brief these issue, that a PD should then be issued and then the Commission should vote on the PD.

Regarding issue #3 above about whether the utilities should seek affirmative consent from otherwise excluded customers to be included in TOU at the same time they take steps to identify such customers, UCAN agrees with CforAT's comments in the matrix when they note that "this is an issue with substantial legal implications that the Commission should consider".¹ Given the substantial legal implications, UCAN would caution against using the advice letter process for this issue as well.

III. ME&O OUTLINE, ME&O WORKING GROUP, PROPOSED SCHEDULE

Regarding the ME&O issues mentioned in the ALJ's September 30th ruling, as well as the ME&O working group discussion and the proposed schedule, UCAN would note the following:

1. UCAN agrees with the proposed "Common Outline for Rate Reform ME&O Plans" filed as attachment B to ALJ McKinney's September 30th order,
2. UCAN has been a member of the ME&O working group and we intend to participate in any upcoming working group meetings, and
3. UCAN, for the most part agrees with the procedural schedule, but we would ask that the three 745 issues we identify above also be discussed and included in any PD on the outstanding 745 issues, tentatively scheduled for July 2017. For the remainder of the schedule, UCAN may be offering further comments at the PHC.

IV. CONCLUSION

UCAN appreciates the opportunity to provide this PHC statement, and we look forward to the upcoming hearing.

Dated: October 6, 2016

Respectfully submitted,

/s/ Donald Kelly

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¹ Attachment A, page 2 of the 745 matrix

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